

115TH CONGRESS
2D SESSION

S. 2374

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay Initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2018

Mr. CARPER (for himself, Mr. KENNEDY, Mrs. McCASKILL, Mr. PETERS, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay Initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stopping Improper
5 Payments to Deceased People Act”.

1 **SEC. 2. DISTRIBUTION OF DEATH INFORMATION FUR-**
2 **NISHED TO OR MAINTAINED BY THE SOCIAL**
3 **SECURITY ADMINISTRATION.**

4 (a) IN GENERAL.—

5 (1) IN GENERAL.—Section 205(r) of the Social
6 Security Act (42 U.S.C. 405(r)) is amended—

7 (A) in paragraph (2)—

8 (i) by striking “may” and inserting
9 “shall”; and

10 (ii) by inserting “, and to ensure the
11 completeness, timeliness, and accuracy of,”
12 after “transmitting”;

13 (B) by striking paragraphs (3), (4), and
14 (5) and inserting the following:

15 “(3)(A) The Commissioner of Social Security shall,
16 to the extent feasible, provide for the use of information
17 regarding all deceased individuals furnished to or main-
18 tained by the Commissioner under this subsection in ac-
19 cordance with subparagraph (B), subject to such safe-
20 guards as the Commissioner of Social Security determines
21 are necessary or appropriate to protect the information
22 from unauthorized use or disclosure, by any Federal or
23 State agency providing federally funded benefits or admin-
24 istering a Federal program for such benefits, including the
25 agency operating the Do Not Pay working system for en-
26 suring proper payment of those benefits, through a cooper-

1 ative arrangement with the agency (that includes the
2 agency’s Inspector General) or with an agency’s Inspector
3 General, if—

4 “(i) under such arrangement the agency (in-
5 cluding, if applicable, the agency’s Inspector Gen-
6 eral) provides reimbursement to the Commissioner of
7 Social Security for the reasonable cost of carrying
8 out such arrangement, including the reasonable
9 costs associated with the collection and maintenance
10 of information regarding deceased individuals fur-
11 nished to the Commissioner pursuant to paragraph
12 (1); and

13 “(ii) such arrangement does not conflict with
14 the duties of the Commissioner of Social Security
15 under paragraph (1).

16 “(B) The Commissioner of Social Security shall, to
17 the extent feasible, provide for the use of information re-
18 garding all deceased individuals furnished to or main-
19 tained by the Commissioner under this subsection,
20 through a cooperative arrangement in order for a Federal
21 agency to carry out any of the following purposes, if the
22 requirements of clauses (i) and (ii) of subparagraph (A)
23 are met:

24 “(i) Operating the Do Not Pay working system
25 established by section 5 of the Improper Payments

1 Elimination and Recovery Improvement Act of 2012.

2 Under such arrangement, the agency operating the
3 working system may compare death information dis-
4 closed by the Commissioner with personally identifi-
5 able information reviewed through the working sys-
6 tem, and may redisclose such comparison of infor-
7 mation, as appropriate, to any Federal or State
8 agency authorized to use the working system.

9 “(ii) To ensure proper payments under a Fed-
10 eral program or the proper payment of federally
11 funded benefits, including for purposes of payment
12 certification, payment disbursement, and the preven-
13 tion, identification, or recoupment of improper pay-
14 ments.

15 “(iii) To carry out tax administration or debt
16 collection duties of the agency.

17 “(iv) For use by any policing agency of the
18 Federal Government with the principle function of
19 prevention, detection, or investigation of crime or
20 the apprehension of alleged offenders.

21 “(C) With respect to the reimbursement to the Com-
22 missioner of Social Security for the reasonable cost of car-
23 rying out a cooperative arrangement described in subpara-
24 graph (A) between the Commissioner of Social Security
25 and an agency, the Commissioner shall—

1 “(i) establish a defined calculation method for
2 purposes of calculating the reasonable cost of car-
3 rying out the arrangement that does not take into
4 account any services, information, or unrelated pay-
5 ments provided by the agency to the Commissioner;
6 and

7 “(ii) reimbursement payments shall be ac-
8 counted for and recorded separately from other
9 transactions.

10 “(4) The Commissioner of Social Security may enter
11 into similar arrangements with States to provide informa-
12 tion regarding all deceased individuals furnished to or
13 maintained by the Commissioner under this subsection,
14 for any of the purposes specified in paragraph (3)(B), for
15 use by States in programs wholly funded by the States,
16 or for use in the administration of a benefit pension plan
17 or retirement system for employees of a State or a political
18 subdivision thereof, if the requirements of clauses (i) and
19 (ii) of paragraph (3)(A) are met. For purposes of this
20 paragraph, the terms ‘retirement system’ and ‘political
21 subdivision’ have the meanings given such terms in section
22 218(b).

23 “(5) The Commissioner of Social Security may use
24 or provide for the use of information regarding all de-
25 ceased individuals furnished to or maintained by the Com-

1 missioner under this subsection, subject to such safe-
 2 guards as the Commissioner of Social Security determines
 3 are necessary or appropriate to protect the information
 4 from unauthorized use or disclosure, for statistical pur-
 5 poses and research activities by Federal and State agen-
 6 cies if the requirements of clauses (i) and (ii) of paragraph
 7 (3)(A) are met. For purposes of this paragraph, the term
 8 ‘statistical purposes’ has the meaning given that term in
 9 section 502 of the Confidential Information Protection
 10 and Statistical Efficiency Act of 2002.’; and

11 (C) in paragraph (8)(A)(i), by striking
 12 “subparagraphs (A) and (B) of paragraph (3)”
 13 and inserting “clauses (i) and (ii) of paragraph
 14 (3)(A)”.

15 (2) REPEAL.—Effective on the date that is 5
 16 years after the date of enactment of this Act, the
 17 amendments made by this subsection to paragraphs
 18 (3), (4), (5), and (8) of section 205(r) of the Social
 19 Security Act (42 U.S.C. 405(r)) are repealed, and
 20 the provisions of section 205(r) of the Social Secu-
 21 rity Act (42 U.S.C. 605(r)) so amended are restored
 22 and revived as if such amendments had not been en-
 23 acted.

1 (b) AMENDMENT TO INTERNAL REVENUE CODE.—

2 Section 6103(d)(4) of the Internal Revenue Code of 1986
3 is amended—

4 (1) in subparagraphs (A) and (B), by striking
5 “Secretary of Health and Human Services” each
6 place it appears and inserting “Commissioner of So-
7 cial Security”; and

8 (2) in subparagraph (B)(ii), by striking “such
9 Secretary” and all that follows through “deceased
10 individuals.” and inserting “such Commissioner pur-
11 suant to such contract, except that such contract
12 may provide that such information is only to be used
13 by the Social Security Administration (or any other
14 Federal agency) for purposes authorized in the So-
15 cial Security Act or this title.”.

16 (c) REPORT TO CONGRESS ON ALTERNATIVE
17 SOURCES OF DEATH DATA.—

18 (1) REQUIREMENTS.—The Director of the Of-
19 fice of Management and Budget shall conduct a re-
20 view of potential alternative sources of death data
21 maintained by the non-Federal sources, including
22 sources maintained by State agencies or associations
23 of State agencies, for use by Federal agencies and
24 programs. The review shall include analyses of—

1 (A) the accuracy and completeness of such
2 data;

3 (B) interoperability of such data;

4 (C) the extent to which there is efficient
5 accessibility of such data by Federal agencies;

6 (D) the cost to Federal agencies of access-
7 ing and maintaining such data;

8 (E) the security of such data;

9 (F) the reliability of such data; and

10 (G) a comparison of the potential alternate
11 sources of death data to the death data distrib-
12 uted by the Commissioner of Social Security.

13 (2) REPORT.—Not later than 4 years after the
14 date of enactment of this Act, the Director of the
15 Office of Management and Budget shall submit a re-
16 port to Congress on the results of the review and
17 analyses required under paragraph (1). The report
18 shall include a recommendation by the Director of
19 the Office of Management and Budget regarding
20 whether to extend the agency access to death data
21 distributed by the Commissioner of Social Security
22 provided under the amendments made by subsection
23 (a)(1) beyond the date on which such amendments
24 are to be repealed under subsection (a)(2).

1 **SEC. 3. IMPROVING THE USE OF DATA BY GOVERNMENT**
2 **AGENCIES TO CURB IMPROPER PAYMENTS.**

3 The Improper Payments Elimination and Recovery
4 Improvement Act of 2012 (31 U.S.C. 3321 note) is
5 amended by adding at the end the following:

6 **“SEC. 8. IMPROVING THE USE OF DEATH DATA BY GOVERN-**
7 **MENT AGENCIES.**

8 “(a) GUIDANCE BY THE OFFICE OF MANAGEMENT
9 AND BUDGET.—

10 “(1) GUIDANCE TO AGENCIES.—Not later than
11 6 months after the date of enactment of this section,
12 and in consultation with the Council of Inspectors
13 General on Integrity and Efficiency and the heads of
14 other relevant Federal, State, and local agencies,
15 and Indian tribes and tribal organizations, the Di-
16 rector of the Office of Management and Budget
17 shall issue guidance for each agency or component
18 of an agency that operates or maintains a database
19 of information relating to beneficiaries, annuity re-
20 cipients, or any purpose described in section
21 205(r)(3)(B) of the Social Security Act (42 U.S.C.
22 405(r)(3)(B)) for which improved data matching
23 with databases relating to the death of an individual
24 (in this section referred to as ‘death databases’)
25 would be relevant and necessary regarding imple-
26 mentation of this section to provide such agencies or

1 components access to the death databases no later
2 than 6 months after such date of enactment.

3 “(2) PLAN TO ASSIST STATES AND LOCAL
4 AGENCIES AND INDIAN TRIBES AND TRIBAL ORGANI-
5 ZATIONS.—Not later than 1 year after the date of
6 enactment of this section, the Director of the Office
7 of Management and Budget shall develop a plan to
8 assist States and local agencies, and Indian tribes
9 and tribal organizations, in providing electronically
10 to the Federal Government records relating to the
11 death of individuals, which may include rec-
12 ommendations to Congress for any statutory
13 changes or financial assistance to States and local
14 agencies and Indian tribes and tribal organizations
15 that are necessary to ensure States and local agen-
16 cies and Indian tribes and tribal organizations can
17 provide such records electronically. The plan may in-
18 clude recommendations for the authorization of ap-
19 propriations or other funding to carry out the plan.

20 “(b) REPORTS.—

21 “(1) REPORT TO CONGRESS ON IMPROVING
22 DATA MATCHING REGARDING PAYMENTS TO DE-
23 CEASED INDIVIDUALS.—Not later than 270 days
24 after the date of enactment of this section, the Di-
25 rector of the Office of Management and Budget, in

1 consultation with the heads of other relevant Federal
2 agencies, and in consultation with States and local
3 agencies, Indian tribes and tribal organizations, shall
4 submit to Congress a plan to improve how States
5 and local agencies and Indian tribes and tribal orga-
6 nizations that provide benefits under a federally
7 funded program will improve data matching with the
8 Federal Government with respect to the death of in-
9 dividuals who are recipients of such benefits.

10 “(2) ANNUAL REPORT.—Not later than 1 year
11 after the date of enactment of this section, and for
12 each of the 4 succeeding years, the Director of the
13 Office of Management and Budget shall submit to
14 Congress a report regarding the implementation of
15 this section. The first report submitted under this
16 paragraph shall include the recommendations of the
17 Director required under subsection (a)(2).

18 “(c) DEFINITIONS.—In this section, the terms ‘In-
19 dian tribe’ and ‘tribal organization’ have the meanings
20 given those terms in section 4 of the Indian Self-Deter-
21 mination and Education Assistance Act (25 U.S.C.
22 450b).”.

1 **SEC. 4. PLAN FOR ENSURING THE ACCURACY AND COM-**
2 **PLETENESS OF DEATH DATA MAINTAINED**
3 **AND DISTRIBUTED BY THE SOCIAL SECURITY**
4 **ADMINISTRATION.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this Act, the Commissioner of Social
7 Security shall submit to Congress a plan, which shall in-
8 clude an estimate of the cost of implementing the policies
9 and procedures described in such plan, to improve the ac-
10 curacy and completeness of the death data (including,
11 where feasible and cost-effective, data regarding individ-
12 uals who are not eligible for or receiving benefits under
13 titles II or XVI of the Social Security Act) maintained
14 and distributed by the Social Security Administration.

15 (b) CONTENT OF PLAN.—In developing the plan re-
16 quired under subsection (a), the Commissioner of Social
17 Security shall consider whether to include the following
18 elements:

19 (1) Procedures for—

20 (A) identifying individuals who are ex-
21 tremely elderly, as determined by the Commis-
22 sioner, but for whom no record of death exists
23 in the records of the Social Security Adminis-
24 tration;

25 (B) verifying the information contained in
26 the records of the Social Security Administra-

1 tion with respect to individuals described in
2 subparagraph (A) and correcting any inaccura-
3 cies; and

4 (C) where appropriate, disclosing correc-
5 tions made to the records of the Social Security
6 Administration.

7 (2) Improved policies and procedures for identi-
8 fying and correcting erroneous death records, includ-
9 ing policies and procedures for—

10 (A) identifying individuals listed as dead
11 who are actually alive;

12 (B) identifying individuals listed as alive
13 who are actually dead; and

14 (C) allowing individuals or survivors of de-
15 ceased individuals to notify the Social Security
16 Administration of potential errors.

17 (3) Improved policies and procedures to identify
18 and correct discrepancies in the records of the Social
19 Security Administration, including social security
20 number records.

21 (4) A process for employing statistical analysis
22 of the death data maintained and distributed by the
23 Social Security Administration to determine an esti-
24 mate of the number of erroneous records.

1 (5) Recommendations for legislation, as nec-
2 essary.

3 **SEC. 5. REPORT ON INFORMATION SECURITY.**

4 Not later than 90 days after the date of the enact-
5 ment of this Act, the Commissioner of Social Security
6 shall submit a report to the Committees on Ways and
7 Means, Oversight and Government Reform, and Home-
8 land Security of the House of Representatives, and the
9 Committees on Finance and Homeland Security and Gov-
10 ernmental Affairs of the Senate that—

11 (1) identifies all information systems of the So-
12 cial Security Administration containing sensitive in-
13 formation; and

14 (2) describes the measures the Commissioner is
15 taking to secure and protect such information sys-
16 tems.

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